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BILLINGS DIV.

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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MONTANA**

**BUTTE DIVISION**

<b>JOHN BRANDON LACEY,</b>	)	<b>CV-10-47-BU-RFC-CSO</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>ORDER ADOPTING FINDINGS</b>
	)	<b>AND RECOMMENDATIONS OF</b>
<b>HEAD JAILER, GALLATIN</b>	)	<b>U.S. MAGISTRATE JUDGE</b>
<b>COUNTY; HEAD JAILER,</b>	)	
<b>BROADWATER COUNTY;</b>	)	
<b>ATTORNEY GENERAL OF</b>	)	
<b>THE STATE OF MONTANA,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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On September 21, 2010, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 5*) as to the Rule 4 prescreening of what she construed to be Lacey's 28 U.S.C. §§ 2241(c)(3) petition for writ of habeas corpus (*Doc. 1*). Lacey is a pre-trial detainee in state custody who asks this Court to enjoin the state court proceedings against him on the grounds that his

right to a speedy trial has been violated. Magistrate Judge Ostby concluded there are no extraordinary circumstances that would justify this court's interference in ongoing state court proceeding, citing *Younger v. Harris*, 401 U.S. 37 (1971). Magistrate Judge Ostby therefore recommends this Court dismiss the petition without prejudice, deny Lacey a certificate of appealability, and enter a judgment of dismissal.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). The time for objection has expired without objection from Lacey. This failure to object waives all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), but this Court must still review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

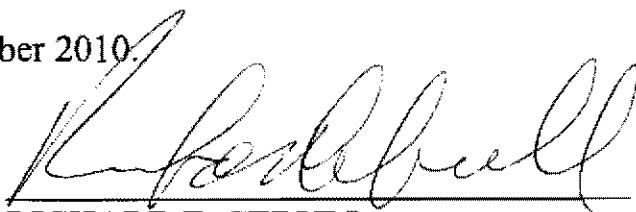
After reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Lacey's petition (*Doc. 1*) is **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

The Clerk of Court is directed to enter, by separate document, a judgment of  
dismissal.

DATED the 18<sup>th</sup> day of October 2010.



RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE